THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 19475 of 2004

Dated: 23-11-2005

Between:

Lankamsani Ramachandrarao

..... PETITIONER

AND

Sri Kesawaswamy Mahalakshmi Ammavari temple,

Rep. By its Executive Officer,

Tanuku and four others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO : 19475 of 2004

O R D E R:

The petitioner claims to be a cultivating tenant in respect of the lands to an extent Ac.0-30 cents and Ac.0-35 cents situated in R.S.Nos.482 and 134/1A

respectively in Tanuku belonging to the first respondent-temple. It is stated that he made an application before the second respondent-Assistant Commissioner, Endowments, seeking a declaration that he is a landless poor. The petitioner claims that the said application is still pending and therefore, he is entitled to continue in possession of the land-in-question. This writ petition is filed aggrieved by the alleged action of the 2nd respondent in not granting stay of dispossession pending the application made by him under Rule 3 of the Rules made in G.O.Ms.No.379 dated 11-03-2004.

This Court, while ordering Rule Nisi on 02-11-2004, granted interim stay of dispossession of the petitioner from the land-in-question.

In response to the Rule Nisi ordered, the first respondent-temple filed a counter-affidavit stating that the auction has already been conducted on 24-05-2004 in respect of the leasehold rights of the land in R.S.No.482/1 which is vacant and that the writ petitioner has also participated. However, the fifth respondent herein who had quoted Rs.9,55,000/- was declared as the highest bidder. In pursuance thereof, the fifth respondent has deposited Rs.3,20,000/- towards 1/3rd of the bid amount and the auction proceedings have already been sent for confirmation to the Commissioner of Endowments, Hyderabad.

A separate counter-affidavit has been filed by the 4th respondent in which it is categorically stated that the petitioner has been in occupation of only Ac.0-35 cents of land in R.S.No.134/1A and that the auction was conducted in respect of the leasehold rights of Ac.0-26 ½ cent of vacant site situated in R.S.No.482/1 and that the 5th respondent was declared as the highest bidder.

From the averments in the counter-affidavits, it is clear that the petitioner had also participated in the auction held on 24-05-2004, however he could not succeed. The said fact has not been contradicted by the petitioner in his Reply affidavit. It is also clear from the counter-affidavit of the 4th respondent that the auction conducted in respect of the land to an extent of Ac.0-26 ½ cents in R.S.No.482/1 is vacant and it has nothing to do with the land claimed by the petitioner. That apart, the application filed by the petitioner under Rule 3 of Rules has already been disposed of holding that the petitioner is in possession of Ac.0-35 cents of land in R.S.No.134/1A and that he is a landless poor

person. If that be so, it is always open to him to claim the benefit under Section 82 (2) of the Act in respect of the said Ac.0-35 cents of land in his possession. In the absence of any material to establish the possession of the petitioner in respect of Ac.0-26 ½ cents of land which was put to auction, and particularly in view of the fact that the proceedings before the 2nd respondent have already been concluded, the interference by this Court is not warranted.

Accordingly, the writ petition is dismissed. It is needless to mention that the interim order granted by this Court on 02-11-2004 shall stand vacated. No costs.

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G.ROHINI, J

23-11-2005

klp